

Introduced by Senator Escutia

February 22, 2005

An act to amend Sections 1801, 1803, and 1804 of the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 951, as introduced, Escutia. Public Utilities Commission: compensation for participants and intervenors.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. The existing Public Utilities Act provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers for participation or intervention in any proceeding of the commission based, in part, upon whether the intervenor would experience significant financial hardship.

This bill would provide that the provisions pertaining to participant and intervenor compensation are to be liberally construed to promote participation and would require the commission to award additional compensation for reasonable costs incurred in organizing and publicizing opportunities for participation in commission hearings or proceedings, or in forming and coordinating coalitions to participate in commission hearings or proceedings.

Existing law authorizes an administrative law judge assigned to a commission hearing or proceeding to issue a ruling addressing issues raised by a notice of intent to claim compensation. Existing law requires the commission to establish an office of the public advisor to assist members of the public and ratepayers who desire to testify

before or present information to the commission in any hearing or proceeding of the commission open to the public.

This bill would require consultation with the public advisor before an administrative law judge issues a ruling addressing issues raised by a notice of intent to claim compensation.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1801 of the Public Utilities Code is
2 amended to read:

3 1801. (a) The purpose of this article is to provide
4 compensation for reasonable advocate's fees, reasonable expert
5 witness fees, and other reasonable costs to public utility
6 customers of participation or intervention in any proceeding of
7 the commission.

8 (b) *The Legislature finds and declares that participation of*
9 *members of the public in commission proceedings should be*
10 *promoted and encouraged, and that reimbursing participants for*
11 *the costs of participating in commission proceedings, where that*
12 *participation substantially contributes to orders and decisions of*
13 *the commission, is in the public interest.*

14 (c) *The provisions of this article are to be liberally construed*
15 *to effectuate the intent of the Legislature and to promote the*
16 *public interest.*

17 SEC. 2. Section 1803 of the Public Utilities Code is amended
18 to read:

19 1803. The commission shall award *compensation for the*
20 *reasonable costs of* advocate's fees, ~~reasonable~~ expert witness
21 fees, *costs incurred in organizing and publicizing opportunities*
22 *for participation in commission hearings or proceedings, or in*
23 *forming and coordinating coalitions,* and other reasonable costs
24 of preparation for and participation in a hearing or proceeding to
25 any customer who complies with Section 1804 and satisfies both
26 of the following requirements:

27 (a) The customer's presentation makes a substantial
28 contribution to the adoption, in whole or in part, of the
29 commission's order or decision.

1 (b) Participation or intervention without an award of fees or
2 costs imposes a significant financial hardship.

3 SEC. 3. Section 1804 of the Public Utilities Code is amended
4 to read:

5 1804. (a) (1) A customer who intends to seek an award under
6 this article shall, within 30 days after the prehearing conference
7 is held, file and serve on all parties to the proceeding a notice of
8 intent to claim compensation. In cases where no prehearing
9 conference is scheduled or where the commission anticipates that
10 the proceeding will take less than 30 days, the commission may
11 determine the procedure to be used in filing these requests. In
12 cases where the schedule would not reasonably allow parties to
13 identify issues within the timeframe set forth above, or where
14 new issues emerge subsequent to the time set for filing, the
15 commission may determine an appropriate procedure for
16 accepting new or revised notices of intent.

17 (2) (A) The notice of intent to claim compensation shall
18 include both of the following:

19 (i) A statement of the nature and extent of the customer's
20 planned participation in the proceeding as far as it is possible to
21 set it out when the notice of intent is filed.

22 (ii) An itemized estimate of the compensation that the
23 customer expects to request, given the likely duration of the
24 proceeding as it appears at the time.

25 (B) The notice of intent may also include a showing by the
26 customer that participation in the hearing or proceeding would
27 pose a significant financial hardship. Alternatively, such a
28 showing shall be included in the request submitted pursuant to
29 subdivision (c).

30 (C) Within 15 days after service of the notice of intent to claim
31 compensation, the administrative law judge may direct the staff,
32 and may permit any other interested party, to file a statement
33 responding to the notice.

34 (b) (1) If the customer's showing of significant financial
35 hardship was included in the notice filed pursuant to subdivision
36 (a), the administrative law judge, in consultation with the
37 assigned commissioner, shall issue within 30 days thereafter a
38 preliminary ruling addressing whether the customer will be
39 eligible for an award of compensation. The ruling shall address
40 whether a showing of significant financial hardship has been

1 made. A finding of significant financial hardship shall create a
2 rebuttable presumption of eligibility for compensation in other
3 commission proceedings commencing within one year of the date
4 of that finding.

5 (2) ~~The~~ *After consultation with the public advisor, the*
6 administrative law judge may, ~~in any event,~~ issue a ruling
7 addressing issues raised by the notice of intent to claim
8 compensation. The ruling may point out similar positions, areas
9 of potential ~~duplication synergies or commonalities~~ in showings,
10 unrealistic expectation for compensation, and any other matter
11 that may affect the customer's ultimate claim for compensation.
12 ~~Failure of the ruling to point out similar positions or potential~~
13 ~~duplication or any other potential impact on the ultimate claim~~
14 ~~for compensation shall not imply approval of any claim for~~
15 ~~compensation.~~ A finding of significant financial hardship in no
16 way ensures compensation. ~~Similarly, the~~ *The* failure of the
17 customer to identify a specific issue in the notice of intent or to
18 precisely estimate potential compensation shall not preclude an
19 award of reasonable compensation if a substantial contribution is
20 made.

21 (c) Following issuance of a final order or decision by the
22 commission in the hearing or proceeding, a customer who has
23 been found, pursuant to subdivision (b), to be eligible for an
24 award of compensation may file within 60 days a request for an
25 award. The request shall include at a minimum a detailed
26 description of services and expenditures and a description of the
27 customer's substantial contribution to the hearing or proceeding.
28 Within 30 days after service of the request, the commission staff
29 may file, and any other party may file, a response to the request.

30 (d) The commission may audit the records and books of the
31 customer to the extent necessary to verify the basis for the award.
32 The commission shall preserve the confidentiality of the
33 customer's records in making its audit. Within 20 days after
34 completion of the audit, if any, the commission shall direct that
35 an audit report shall be prepared and filed. Any other party may
36 file a response to the audit report within 20 days thereafter.

37 (e) Within 75 days after the filing of a request for
38 compensation pursuant to subdivision (c), or within 50 days after
39 the filing of an audit report, whichever occurs later, the
40 commission shall issue a decision that determines whether or not

1 the customer has made a substantial contribution to the final
2 order or decision in the hearing or proceeding. If the commission
3 finds that the customer requesting compensation has made a
4 substantial contribution, the commission shall describe this
5 substantial contribution and shall determine the amount of
6 compensation to be paid pursuant to Section 1806.

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